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WASHINGTON, DC 20036

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**OFFICE OF PETITIONS**

In re Application of :  
Shigeyuki Kuroda :  
Application No. 09/902,112 : DECISION GRANTING PETITION  
Filed: 11 July, 2001 :  
Attorney Dkt. No. KOM-137/INO :

This is a decision on the "Petition Under 37 CFR 1.181" filed on 29 October, 2001, requesting that the above-identified application be accorded a filing date of 11 July, 2001, with a complete specification, including at least one claim, as a part of the original disclosure.

On 11 July, 2001, the application was filed.

On 28 August, 2001, Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application" stating that the specification was missing and that specification, including at least one claim, was required.

On 29 October, 2001, the present petition, was filed. Petitioner argues that 22 pages of specification, including Claims 1-5, and one (1) page of abstract, were filed with the other application papers on 11 July, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, on 29 October, 2001, petitioner supplied a copy of two postcard receipts. One postcard receipt shows an Office date stamp of 11 July, 2001, and acknowledges receipt of, *inter alia*, 18 pages of specification, three (3) pages containing Claims 1-5, and one (1) page of abstract. The other postcard receipt itemizes the same papers and bears an Office date stamp of 11 July, 2001, and the above-identified application number, but states on the reverse side of the postcard that the PTO did not receive the specification, claims, or abstract. Petitioner requests that the application, including 21 pages of specification, including Claims 1-5, and one (1) page of abstract, be accorded a filing date of 11 July, 2001.

The Office is construing the postcard acknowledging receipt of the specification, claims, and abstract as the first postcard. Apparently, the specification, claims, and abstract became disassociated with the other application papers filed on 11 July, 2001, after receipt in the USPTO. Petitioner **must** inform the Office if this is not a correct interpretation.

A review of the record reveals that no pages of specification or abstract are located among the application papers deposited on 11 July, 2001. However, the evidence is convincing that the application papers deposited on 11 July, 2001, included 21 pages of specification, including five (5) claims, and one (1) page of abstract, which were subsequently misplaced in the Office. Therefore, the application, is entitled to a filing date of 11 July, 2001.

The Notice of Incomplete Nonprovisional Application mailed on 28 August, 2001, was sent in error is hereby vacated.

In view of the above, the petition is granted. No petition fee is necessary and none has been charged.

The application will be processed and examined using the copy of the specification, including the claims, and abstract supplied on 29 October, 2001. The copy of the seven (7) sheets of drawings supplied on 29 October, 2001, will not be processed or entered, but will be retained in the application file.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of 11 July, 2001, using the application papers filed on 11 July, 2001, and the 21 pages of specification, including the claims, and one (1) page of abstract supplied on 29 October, 2001.

Telephone inquiries should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.



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